

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

QUATRIAL SMITH,

Plaintiff,

Case No. 23-cv-11490

Hon. Matthew F. Leitman

v.

DEPUTY VOURHEES, *et al.*,

Defendant.

**ORDER (1) ADOPTING RECOMMENDED DISPOSITION OF REPORT
AND RECOMMENDATION (ECF No. 33) AND (2) DENYING AS MOOT
DEFENDANTS' MOTIONS TO DISMISS (ECF Nos. 13, 17)**

In this action, Plaintiff Quatrial Smith alleges that Defendants violated his constitutional rights when he was assaulted in his prison cell. (*See* Compl., ECF No. 1.) On October 13, 2023, Defendant Genesee County Jail filed a motion to dismiss, and on October 25, 2023, Defendant Vourhees also filed a motion to dismiss. (*See* Motions, ECF Nos. 13, 17.) Thereafter, Smith filed a motion to amend his Complaint. (*See* Mot., ECF No. 22.)

The motions were referred to the assigned Magistrate Judge. On June 6, 2024, the Magistrate Judge issued a combined order and report and recommendation in which, in relevant part, he (1) granted Smith's motion to file an Amended Complaint and (2) recommended that the Court deny Defendants' motions to dismiss as moot in light of his decision to allow Smith to file an Amended Complaint (the "R&R").

(*See* R&R, ECF No. 33.) At the conclusion of the R&R, the Magistrate Judge informed the parties that if they wished to object to his rulings, they needed to file objections with the Court within 14 days. (*See id.*, PageID.202-203.)

No party has filed an objection to the R&R. The failure to object to a report and recommendation releases the Court from its duty to independently review the matter. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985). *See also Ivey v. Wilson*, 832 F.2d 950, (6th Cir. 1987) (explaining that where party fails to file “timely objections” to report and recommendation, court may accept that recommendation “without expressing any view on the merits of the magistrate’s conclusions”). In addition, the failure to file objections to a report and recommendation waives any further right to appeal. *See Howard v. Sec’y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *Smith v. Detroit Fed’n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Finally, Defendants have now filed an Answer to Smith’s Amended Complaint. (*See* Answer, ECF No. 34.)

Accordingly, for all of the reasons explained above, the recommended disposition of the R&R (ECF No. 33) is **ADOPTED** and Defendants’ motions to dismiss (ECF Nos. 13, 17) are **DENIED AS MOOT**.

IT IS SO ORDERED.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: November 4, 2024

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on November 4, 2024, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

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